IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application No.501 of 1994

Shri Vijaysinh Ramchandra Uthale. .. Petitioner

Vs.
Laxman Sadashiv @ Babanrao Uthale
and Others. .. Respondents

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None present for the petitioner.

Shri Umesh Mankapure for Shri R.V.More for respondent nos.1, 3 and 4.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 23rd NOVEMBER, 2004.

P.C.

1. None present for the petitioner. Heard the learned advocate for the respondent Nos.1, 3 and 4. Perused the records.

2. The petitioner challenges the order dated 10th December, 1993 passed by the Civil Judge, Senior Division, Satara, in Darkest No.30 of 1991, and by the impugned order, the executing Court has directed the implementation of the Commissioner's report in relation to the partition of the property in terms of

the suggestions made by the Commissioner, while ordering one of the respondents, viz. the plaintiff, to compensate the other co-owners who have not been allotted with any area of the property in question towards their share therein.

3. The impugned order seems to have been challenged solely on the ground that the executing Court erred in not awarding the 1/5th share in the suit land to the petitioner when the decree passed in the Civil Suit was to the effect that the petitioner was entitled for 1/5th share in the suit land.

4. Perusal of the impugned order along with the Commissioner's Report discloses that, though the impugned order specifically states that the petitioner is entitled for 1/5th share in the suit land in terms of the decree, nonetheless the impugned order specifically states that the partition is to be effected in terms of the suggestions putforth by the Commissioner. The Commissioner's report certainly discloses the allotment of the land in the suit property which is more than the share of the petitioner granted in terms of the decree passed by the Court. This has been done in order to give fullfledge effect to the decree passed by the Court

and in that regard, even the allotment of share in the land has been denied to two of the co-owners who are directed to be compensated on that count by the plaintiff in the suit. The contentions of the petitioner that by the proposed division, there has been violation of the decree passed by the Court or that the proposed partition of the property is contrary to the decree passed by the Civil Court, and that the partition has been ordered ignoring the decree in favour of the petitioner, are devoid of substance and without any basis. Proper reading of the impugned order along with the Commissioner's report clearly discloses that the executing Court has directed the allotment of the suit land to the petitioner more than the 1/5th share therein and undisputedly, the decree of the Civil Court does not allot more than 1/5th share to the petitioner in the suit land. Being so, the impugned order passed by the executing Court does not disclose any illegality nor any impropriety and therefore, the same does not warrant interference in revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908, and hence, the Civil Revision Application fails and is hereby dismissed. Interim reliefs stand vacated. The rule is discharged with no order as to costs.